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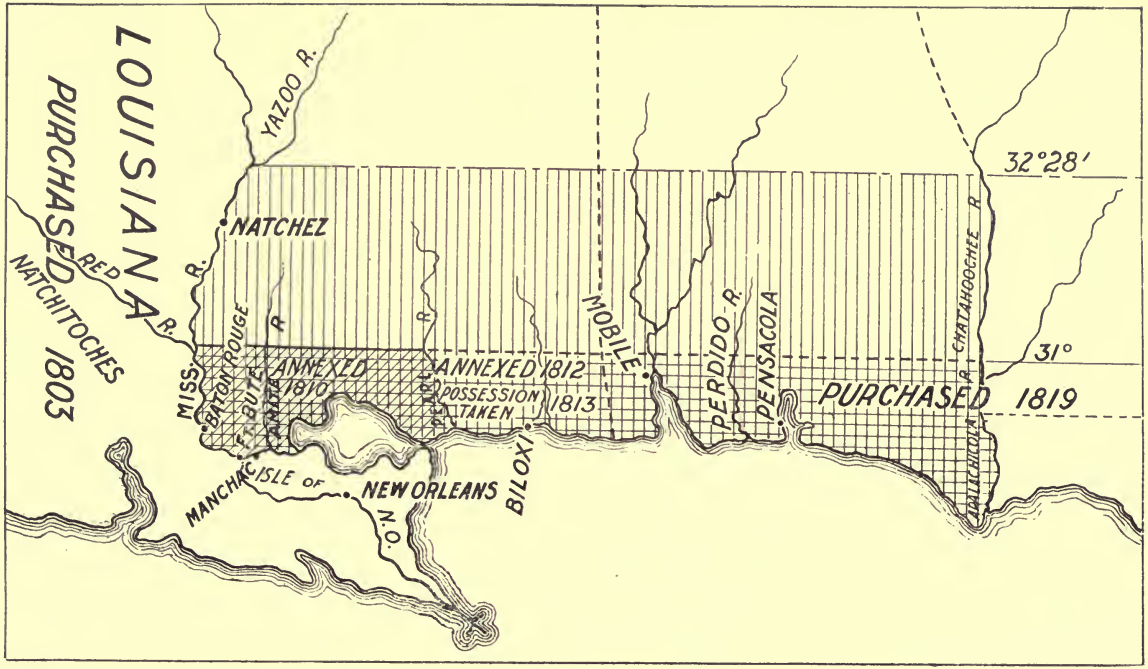
WEST FLORIDA

AND ITS RELATION TO THE

Historical Cartography of the United States



BRITISH WEST FLORIDA.—Acquired by Great Britain 1763. Boundary of 32° 28′ fixed 1767.

SPANISH WEST FLORIDA.—Acquired by Spain 1783. Northern Boundary fixed 1795. Pearl-Perdido portion annexed to Mississippi Territory 1812. Possession taken 1813. Perdido-Apalachicola portion acquired by Florida purchase of 1819.

INDEPENDENT STATE OF WEST FLORIDA.—Independence won by Revolt. Declared September 26, 1810. Annexed to U. S. by President proclamation, October 27, 1810. Added to State of Louisiana by Act of Congress April 14, 1812.

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History is past Politics and Politics are present History.—*Freeman.*

WEST FLORIDA

AND ITS RELATION TO THE

Historical Cartography of the United States

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West Florida and Its Relation to the Historical Cartography of the United States.

INTRODUCTION.

West Florida, as a political and territorial entity, occupies an uncertain position in the minds of authoritative contributors to the history and cartography of the United States. For instance, McMasters[1] gives Florida as extending westward to the Mississippi, while Scribner's Statistical Atlas, dividing Florida into east and west, makes the western portion extend only as far as the Perdido river.[2] McMaster gives date of Florida's acquirement as 1819; Scribner as 1821.

McCoun's Historical Geography of the United States shows West Florida extending to the Pearl river in one place;[3] to the Perdido in another,[4] and indicates in a third place that the Floridas are yet Spanish possessions in the year 1820.[5] Albert Bushnell Hart gives West Florida, after the St. Ildefonso treaty, as extending to the Mississippi,[6] and dates the separate acquirements of East Florida and West Florida as 1819 and 1812, respectively.[7] Justin Winsor gives the claims of the Louisiana purchase as extending to the Appalachicola, the only authority within the knowledge of the present writer that extends the territorial limits of colonial Louisiana eastward beyond the Perdido.[8]

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[1] History of the People of the U. S., Vol. 2 (map).
[2] Plates 13, 14 and 15. [3] Map of date 1787. [4] Map of 1790.
[5] Map of 1820. [6] Formation of the Union Map, No. 4.
[7] Ib., Map. No. 1. [8] Nar. and Crit. Hist. of America, Vol. 7, p. 531.

Henry Adams, after a most critical examination of the records bearing upon the Louisiana purchase, makes no inclusion of the Mississippi-Perdido region.

B. A. Hinsdale, in his *Historical Geography of the New World*,[1] says:

"The first Louisiana was the Mississippi Valley, together with the country east and west, draining to the Gulf of Mexico from the Perdido to the Rio Grande. The second Louisiana was the western half of the valley and the island of New Orleans. This was the Louisiana purchase of 1803. * * * Long before this time (1763) the founding of Louisiana by the French had cut Florida short on the west of the Perdido river."

If Florida was cut short at the Perdido river, and the Louisiana purchase of 1803 included only the island of New Orleans east of the Mississippi, this leaves the territory between the Perdido and Mississippi rivers to be accounted for.

An examination of fourteen standard and representative school histories of the United States[2] reveals similar contradictions and discrepancies. The majority of them give Florida as extending to the Perdido river, and include the region between the Perdido and the Mississippi in the Louisiana purchase. Only two[3] agree with McMaster. Adams, Hinsdale and Hart, in defining the limits of the Louisiana purchase as including nothing east of the Mississippi river, save the island of New Orleans.

Other citations might be made, but the foregoing indicate that a mistiness obscures the region between the Perdido and the Mississippi, historically considered, a mistiness that we look in vain to general historical narratives to dispel.

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[1] How to Study and Teach History (International Educational Series, edited by W. T. Harris), page 184.

[2] Eclectic, Chambers', Barnes', Shinn's, Scudder's, Johnston's, Anderson's, Swinton's, Sheldon's, Cooper's, Mowry's, Montgomery's, Eggleston's, and Niles'.

[3] Chambers' and Sheldon's.

That the history of West Florida has not been more clearly set forth need occasion little surprise. Exploration, occupancy, conquest, treaty and revolt, have caused the region in question to change ownership and jurisdiction no less than six times. Perhaps this can be said of no other portion of American soil. Need we wonder, then, that they who have pursued with certain tread the broad highway of national events, have hesitated to turn aside into a by-path of so devious a winding.

It is the purpose of this paper to point out wherein lie the causes of these divergencies of opinion and to remove, if possible, some of the obscurities which have brought about contradictions similar to those given. These causes may be reduced in number to two.

(1) *Historians have failed to recognize that in limits and political jurisdiction there have existed no fewer than three separate and distinct West Floridas.*

The first of these was *British West Florida*, extending north to the parallel drawn through the mouth of the Yazoo river, in the present State of Mississippi (32° 28′), and lying between the Chatahoochee and Mississippi rivers. Organized in 1763 as a royal province, its boundaries determined as above in 1767, it constituted for twenty years the fourteenth of the English colonial possessions in what is now the territory of the United States.

The second was *Spanish West Florida*, constituted with the same limits as the above until 1795, when by treaty between Spain and the United States its northern extent was shortened to the parallel 31°, which to this day forms, in part, the boundaries of Florida, Alabama, Mississippi, and Louisiana.

The third was the *Independent State of West Florida*, of short but active existence, whose limits were: on the north, the line as given above (31°); the Pearl River, on the east; Lakes Borgne, Pontchartrain and Maurepas, and the River Iberville, or Bayou Manchac, on the south; and the Mississippi, on the west.

(2) *Historians have too readily accepted the dicta of Madison and Livingston, Secretary of State and Minister to France, respectively, when the Louisiana purchase was made, that West Florida was included in the Louisiana purchase, when the weight of historical and contemporary testimony is directly opposed to any such inclusion.*

Those who have given this testimony due consideration, give Spanish Florida as extending to the Mississippi, but fail to agree as to whether the Perdido or the Chatahoochee is the dividing line between East and West Florida. Those who have accepted Madison and Livingston's theory, fix the western boundary of Spanish Florida at the Perdido river and, recognizing that West Florida must be given historical existence of some kind or other, assign to it the narrow limits between the Chatahoochee and the Perdido.

In our search for the truth we shall consider in brief West Florida under a succession of jurisdictions, and then endeavor to show the unsoundness of Livingston's and Madison's claim that West Florida was included in the Louisiana purchase.

Part I.

The Three West Floridas.

Part I.

THE THREE WEST FLORIDAS.

I.—Ante-Colonial History.

The political history of West Florida begins with the year 1763, when England, having come into possession of the greater part of North America, organized the region between the Mississippi and Chatahoochee into a Royal Province, and thus added one more to the list of her colonial possessions within the present limits of the United States.

But back of its political history is a territorial history; and as the narrative of an American State is generally preceded by some account of the region in which the life and institutions of the State have arisen, so will our subject be brought into clearer historic view by a brief reference to some of the most significant events connected with the period of American beginnings.

The successful termination of the first voyage of Columbus, bringing, as it did, a knowledge of the existence of the New World within the practical comprehension of the nations of Western Europe, was immediately followed by Spanish occupancy of the principal islands of the West Indies.

With Cuba and Jamaica as bases, Spanish exploration soon extended to the mainland of North America. In one direction went De Leon upon his famous search for the fabled island of Bimini, during the course of which he discovered and named Florida (1512); in another, Grijalva, who reached and explored the coast of Mexico (1518).

De Leon was followed by De Ayllon, whose expeditions

took him, first, to the coast of what is now South Carolina, then called Chicora (1520) and subsequently to the Chesapeake Bay. Grijalva was followed by Cortez, whose conquest of the Aztec realm constitutes one of the saddest of the earlier pages of American history (1520).

With the exploration of the coast line between Florida and Mexico the names of Alonzo de Pineda and Pamfilo de Narvaez are most prominently identified. Pineda was dispatched by Francis de Garay, governor of Jamaica, with a well-equipped expedition to seek out some passage-way through the land to the ocean beyond. He skirted the coast from Cape Florida to Mexico, touching at various points, and taking possession (1519). Upon his return, he is supposed to have discovered and entered the Mississippi river, bestowing upon it the name Espiritu Santo.[1]

Pamfilo de Narvaez, who had been discomfited in his endeavor to wrest from Cortez by force the honor of conquering Mexico, undertook the conquest of Florida (1528). His expedition was an ill-fated one, for, after a fruitless march into the interior of western Florida, the would-be conquerors returned, disappointed, to the coast, constructed five frail craft, which they loaded to the gunwale, and proceeded slowly to the westward. They, too, are supposed to have beheld the mouth of the Mississippi, whose swift flowing current wrought havoc to their heavily laden boats. A storm did the rest. Eight years afterward, Cabeza de Vaca, Castillo, Dorantes, and a negro arrived in the Spanish settlements[2] of Mexico—sole remnant of the six hundred that had set out with De Narvaez. They had made their way overland to the Pacific, and then southward to their compatriots.

With a large and carefully selected body of men, Hernando De Sota landed at Tampa Bay (1539), bent upon accomplishing what De Narvaez had failed to do. The

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[1] Winsor: Narrative and Critical History, Vol. 2, p. 237.
[2] Winsor: Narrative and Critical History, Vol. 2, p. 245.

story of his memorable march has often been told. It is a tale of dogged determination of purpose on the part of the commander, of unswerving loyalty on the part of his men. It is a narrative of endurance, courage, and fortitude, of disaster, pathos, and tragedy.

North, to the mountains of North Georgia; southwest, through the length of Alabama to the Indian town of Mauvilla,[1] where was waged their greatest battle; north-westward, diagonally across the present State of Mississippi, they made their way, the journey a series of harassings and savage baitings whose chronicle finds fit place among the nightmares of history. The Mississippi river was crossed a little below the site upon which now stands Memphis. It is probable that the Missouri line was reached before the invaders undertook to return. Slowly they made their way southward, their number lessening day by day. Soon they reached what is now north-eastern Louisiana. Here, amid the glooms of swamp and river bottoms, beset by vengeful foes, a remnant of the band gathered about their leader. Stubborn old soldier that he was, nothing but death could overcome him, and here it was that he succumbed. In the dead of night his body found a watery sepulchre in the river whose waters he had crossed in the fullness of his strength. His companions, reduced in number, eventually made their way by river and gulf to Mexico.

Thus it will be seen that through the explorations of De Leon, De Ayllon, De Narvaez, and De Sota the territorial claims of Spain reached north-westward from Florida into the heart of the American continent. From Mexico they extended north and north-eastward.

Spain maintained her right to these territorial claims in 1565, when Melendez de Aviles destroyed the Huguenot settlement in north-east Florida, and built St. Augustine, and this right went unquestioned until the year 1699.

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[1] Near Mobile.

II.—French Occupancy.

In the sixty years following the founding of Quebec (1608), the forerunners of French civilization in America reached the region about the shores of the great lakes. Among the first to come to the hither side and enter what is now the territory of the United States were Nicollet, Marquette, Joliet, Allouez, Hennepin, Du Luth Tonti, La Salle, and others, whose names are made familiar to us in the chronicles of earlier explorations.

From their Indian friends, the pioneers of New France learned of the great western river flowing southward, now known as the Mississippi. Marquette and Joliet made their way to this river through the wilds of what is now Wisconsin, and descended as far as the mouth of the Arkansas (1673). They were followed by La Salle, who with his faithful companion, Tonti, explored the Mississippi to its mouth, taking possession of the whole territory watered by it and its tributaries in the name of Louis XIV King of France (April 9, 1682). Here is where the name Louisiana first appears upon the map, and a claim to a part of the shore of the Gulf of Mexico is set up counter to the claims of Spain.

La Salle, setting out from France, made an ineffectual attempt to reach the mouth of the Mississippi, for the purpose of planting a colony upon its banks. Tonti descended from Canada, to co-operate with his chief; and, failing to meet La Salle, established Arkansas Post (1686), the oldest settlement in the lower Mississippi Valley.

France's further plans of colonization were held in abeyance during the war of the English Succession.[1] But no sooner had the war ended (1697) than they were put into execution. Here comes upon the scene Pierre Lemoyne, Sieur d'Iberville. The period of American beginnings has no more heroic a figure. Iberville was a Canadian by birth,

[1] In America known as King William's War.

one of eleven brothers, all of whom attained distinction in the service of king and country. As a naval officer of France in the war just closed, he had taught the English several lessons in the art of naval warfare, and had given them some forcible reminders that their boasted superiority on sea was not as yet clearly established.[1]

Iberville sailed from Brest (1698) with a company of colonists. Entering the Gulf of Mexico, he directed the course of his vessels to the magnificent harbor of Pensacola, of which he had learned. But behold, he finds himself forestalled by the Spaniards, who, anticipating the coming of the French and determined to hold by occupancy what was Spain's by right of discovery and exploration, had only a month previous established themselves at Pensacola.

It was only by the subterfuge of concealing the real object of his expedition that Iberville was permitted to proceed without protest on the part of the Spaniards.[2] Proceeding westward, he touched at Mobile bay, explored the islands which skirt Mississippi sound, and finally effected a landing near what is now the town of Ocean Springs, Miss. (1699). The settlement was called Biloxi, after a neighboring tribe of Indians. Here the first seat of government of lower Louisiana was established, and the Sieur Sauvolle was appointed the first governor.

The Spaniards, in their establishment of missions, were making their way up from Mexico. Already the English influence was reaching from the Atlantic seaboard and affecting the Chickasaws and other Indian tribes within the limits of the French claim.

To combat the one and counteract the other, a post was established on Red River, near the present town of Natchitoches, La. (1714), and another, Fort Rosalie, near the present town of Natchez, Miss. (1716). Finally, realizing that lower Louisiana could never be firmly held and the full

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[1] See Gayarré: Hist. of La., Vol. 1, chap. 2.

[2] King and Ficklin's Hist. of La., page 30.

control of the Mississippi be assured unless the center of French colonization was moved to the banks of that stream, New Orleans was founded (1718), and shortly after made the seat of government.

With the founding of New Orleans, the French settlements along the gulf, or West Florida coast, pass historically into obscurity. After sixty-four years of French occupation, West Florida at the time of the treaty of 1763 contained less than five hundred people, including slaves.[1] In subsequent years it was left to a historian[2] to recall the fact that there ever was a time that Louisiana, "as France possessed it," extended along the shores of the Gulf of Mexico as far as Mobile.

III.—The First West Florida (British).

When the "Old French War" drew to a close, and the contest for supremacy in America was decided in favor of the English, France was compelled to relinquish all her territorial possessions on the continent of America. To Spain, who had been her suffering ally in this war,[3] she gave the island of New Orleans[4] and that part of Louisiana lying west of the Mississippi. To England she ceded that part of Louisiana lying east of the Mississippi. England also received Florida of Spain, making the English possessions in what is now the territory of the United States, extend from the Atlantic, on the east, to the Mississippi, on the west; and from the great lakes, on the north, to Lakes Maurepas, Pontchartrain, and Borgne, and the Gulf of Mexico, on the south.

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[1] Lowry and McCardle: Hist. of Miss., p. 47.

[2] Marbois.

[3] Duruy: Hist. of France, p. 501.

[4] The island of New Orleans lay upon the east bank of the Mississippi, and extended from the mouth of that river up as far as Bayou Manchac, or Iberville river, a stream a little distance south of Baton Rouge, connecting the Mississippi with Lake Maurepas. The Bayou no longer exists, having been filled up.

Spain manifested some reluctance in extending her jurisdiction over the ceded province. The treaty was concluded in 1763, and not until 1766 did she show any intent to take formal possession.[1] Indeed, it was not until 1769 that the transfer from France to Spain was formally declared and consummated.

On the other hand, England acted very promptly in occupying her part of the cession. The treaty of cession was concluded Feb. 10, 1763, and before the year was out, by proclamation of King George III, Florida was divided, the boundaries of the eastern and western portion established, and Captain George Johnstone, a distinguished naval officer, installed as first governor of the British Royal Province of West Florida.

The claims of Georgia extending westward to the Mississippi, it was at first intended that the northern boundary of West Florida should be fixed at the 31st parallel of latitude, but the difficulty of communication between the east and west in the latitude of Georgia, and the necessity of having a seat of government convenient to the people, who were already entering and taking up their residence in the fertile lands about the Yazoo and other streams, caused the northern limit of West Florida to be extended northward to the line of 32° 28′ (1767), which extension was embodied in the commission of John Elliot, who succeeded Johnstone as governor.[2]

The eastern boundary of British West Florida was the Chattahoochee and Appalachicola rivers; the western, the Mississippi. On the south were the Gulf of Mexico, Mississippi sound, Lakes Borgne, Pontchartrain, and Maurepas; and Bayou Manchac separating West Florida from the

[1] In 1766, Don Antonio de Ulloa was sent to govern Louisiana, but, although he remained in the colony two years or more, he exhibited no credentials and failed to assume any of the duties of his office. In 1769, Don Alexander O'Reilly arrived and took formal possession for Spain.

[2] Lowry and McCardle: Hist. of Miss., p. 48.

Isle of Orleans to the southward. The seat of government was established at Pensacola. Fort Condé, near Mobile Bay, was changed to Fort Charlotte; Fort Rosalie (Natchez), to Fort Panmure. A new fort was established and garrisoned at the junction of Bayou Manchac and the Mississippi river, and was called Fort Bute. Bute and Panmure were two administration notables during the reign of George III. the king of England at that time.

A wonderful impetus was given to the West Florida colony when power was bestowed upon Governor Johnstone to make free grants of land to every retired officer and soldier who had served England in the French and Indian war. A field officer was entitled to 5000 acres, a captain to 3000, and so on down to a private, whose portion was 100 acres.

In the twenty years that West Florida was a British possession French influences and trends of development were rooted out and the province was made thoroughly English in character. The three English governors of British West Florida were Johnstone and Elliot, already mentioned, and Peter Chester. Johnstone was appointed in 1763; Elliot in 1766, and Peter Chester in 1770.[1] It was during Chester's incumbency that some of the most remarkable events connected with West Florida history took place.

IV.—The Second West Florida (Spanish).

The attitude of Spanish Louisiana toward British West Florida was one of jealousy and mistrust. The British were discouraged in every way from opening commercial relations with their Louisiana neighbors. Nevertheless, an ex-

[1] Lowry and McCardle's History of Mississippi gives the dates as 1763, 1767 and 1771. Beatson's Political Index to the Histories of Great Britain and Ireland; or, a Complete Register of the Hereditary Honours, Public Officers and Persons in Office, from the Earliest Periods to the Present Time, published in London, in 1788, from which have been taken the above, may be considered authoritative.

tensive, though surreptitious,[1] trade was developed that augured great prosperity to West Florida. As the war of the American Revolution approached, the same instinct which impelled emigration across the Alleghanies to Tennessee, Kentucky and Ohio, caused West Florida to receive its share of English-speaking pioneers. The American element of population thus introduced was decidedly a Tory element, but not one given to aggressiveness, being content to occupy a position of neutrality in the contest between England and her American colonies. West Florida was so far away from the scene of action, that she well may have remained undisturbed but for the fact of Spanish antagonism against things British. Between the revolting American colonies and England the Spanish authorities manifested a decided leaning toward the former.

This favoring of the American colonies against the English first took the form of permitting Oliver Pollock, the secret agent of the Continental Congress, to gather stores and munitions of war at New Orleans, and forward them by river to Fort Pitt (Pittsburg). Indeed, the idea of an American expedition down the Ohio and Mississippi for the purpose of attacking the British of West Florida was a subject of correspondence between Captain George Morgan, in command at Pittsburg, and Governor Galvez of Louisiana.

When Pollock descended the Mississippi to establish himself in New Orleans, there came with him an adventurer of brutal instincts but gentlemanly appearance, in the person of James Willing.

"Willing," says Martin,[2] "visited the British settlements on the Mississippi, and some of his companions crossed the lakes to Mobile, with a view to induce the inhabitants to raise the striped banner, and join their countrymen in the struggle for freedom The people of both the Floridas re-

[1] See Gayarré: History of Louisiana, Vol. 3, p. 45.
[2] History of Louisiana, p. 223.

mained steadfast in their attachment to the royal cause. The thin and sparse population of the Floridas, their distance from the provinces engaged in the war, and the consequent difficulty of receiving assistance from them, had also its influence on the conduct of the inhabitants."

Willing was hospitably entertained at Baton Rouge, Natchez, and other points visited. No one suspected that a plot against the well-being of his entertainers was shaping itself in his mind. He returned to Pennsylvania, and upon his representation that the neutrality of West Florida was highly important to the American cause, as removing an enemy from the rear and permitting the free passage of munitions of war, he received from Congress, then sitting at Lancaster, Pa., authority to move in the matter of securing this neutrality.

Returning to Natchez with an armed retinue, he found it no difficult matter to prevail upon many to take an oath of neutrality. Upon one pretext or another, Willing now entered upon a career of confiscation, robbery and cruelty. The very homes in which he had been a favored guest suffered most.[1] Many unfortunates, bereft of their all, were compelled to take refuge across the river among the unfriendly, but less cruel, Louisianians. But for this cruel, wanton, unprovoked, conduct toward a helpless community, West Florida might have been won over to the American cause, the royal governor at Pensacola being too far distant to interpose any active opposition either against Willing's raids or against any action the West Floridians near the Mississippi might have taken toward co-operating with the thirteen other colonies of Great Britain. So West Florida was overrun and ravaged in the war of the American Revolution, as were the Atlantic seaboard colonies; and if the Carolinas had a bloody Tarleton to ignore the usages of civilized warfare, West Florida had a brute Willing, to

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[1]A Memento of Willing's Raid, *New Orleans Times-Democrat*, Feb. 25, 1894.

garb himself in a cloak of patriotism as a studied excuse for license and crime.

In 1777, France espoused the cause of the American colonies, and formed an alliance with them against England. Perceiving a possibility of winning back the much coveted fortress of Gibraltar, Spain shortly after allied herself with France, and was soon actively engaged in hostilities against England (1779).

The Spanish province of Louisiana had for its governor at the time Spain declared war, Don Bernard de Galvez, who, but a youth in years, left a deep impression upon his times and surroundings by his intrepidity and genius. When news reached Louisiana of Spain's declaration of war, Galvez promptly took upon himself the task of conquering West Florida.[1] With a force of 1400 men, he marched northward from New Orleans, and, arriving at Bayou Manchac, stormed and captured Fort Bute. Advancing upon Baton Rouge, he invested the place, and, after a hot engagement lasting two hours, compelled Colonel Dickinson with 500 men to surrender. His next undertaking was against Mobile, which surrendered March 14, 1780.

It is needless to say that the achievements of Galvez were viewed with great satisfaction in both America and Spain. General Washington sent a letter of congratulation from his winter quarters at Morristown, N. J.[2] Every encouragement was now extended to Galvez to continue his operations. Ships and men were furnished him, and from Havana he set out for Pensacola to attack the British capital and stronghold. At Pensacola he was joined by Miro, from New Orleans, and Espelleta, from Mobile. The personal bravery of the young commander was an important factor in all his military successes, and never was this better veri-

[1] An original print of the royal proclamation authorizing the Spanish colonists to proceed against their English neighbors is in the possession of Mr. H. L. Favrot, of the New Orleans bar.

[2] Washington to Don Juan Miralles, Feb. 27, 1780.

fied than in his attack upon Pensacola. The fort was taken, and with its fall the Floridas, West and East, by right of conquest, which right was afterward confirmed by the treaty of 1783, became Spanish territory again,[1] and once more by occupancy and possession did she hold what had once been hers by discovery and exploration.

Many honors were bestowed upon Galvez. He was commissioned a Lieutenant-General, decorated with the cross of Knight Pensioner, and made a Count. He was appointed, successively, Governor of Louisiana; Captain-General of Louisiana and Florida; Governor-General of Cuba, the Floridas and Louisiana; and Viceroy of Mexico. With a record achieved by few of his years, he died at the comparatively early age of thirty-eight. His several commissions define sharply the distinction existing in the Spanish mind between Louisiana and the Floridas. According to Spanish conception, West Florida was not Louisiana, but a separate province, conquered by force of arms, an integral unit among the units which collectively constituted Spain's colonial possessions in the Western World.

V.—The Third West Florida (Independent State).

The establishment of the Federal Government followed the successful termination of the American Revolution. The relations between the newly organized government and the Spanish authorities of Louisiana were by no means harmonious. The boundary line between the Floridas and the United States was in dispute.[2] Spanish intrigue was

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[1] Lecky: History of England in the Eighteenth Century, p. 171.

[2] Spain claimed the 32° 28′ line, proclaimed by Great Britain in 1767, as the northern boundary of West Florida. The United States insisted upon parallel 31°, the boundary as originally fixed before the Natchez district was annexed. The treaty of Madrid, Oct. 27, 1795, confirmed the latter. (See Winsor's Nar. and Crit. Hist., Vol. 7, p. 543.)

fomenting among the settlers of the Ohio Valley a spirit of discontent against the government of the United States. The Spanish authorities of Louisiana had in view the annexation of the territory in which this discontent was manifesting itself.

The produce of the western settlers in those days, when the bars of the Alleghanies had not yet been removed by locomotive and canal boat, could only reach a profitable market by way of the Mississippi. While the mouth of this river was under Spanish control, western American commerce depended in large part upon the complacency of the Spanish governor at New Orleans. Sometimes river navigation was prohibited to the Americans; at other times it was grudgingly conceded, and that in a manner thoroughly unsatisfactory to those whose material prosperity depended upon this free use of nature's route to the sea.

Thus it was that the United States, in conformity with its leading purpose "to promote the general welfare," found it incumbent upon itself to secure a commercial depot near the mouth of the river. Either the island of New Orleans or West Florida would answer the purpose. Moreover, a number of other rivers rising in the territory of the United States make their way through Florida to the Gulf of Mexico. With the necessity of having a depot site near the mouth of the Mississippi came also the realization that control of the mouths of these other rivers would be of great future importance to the United States. The idea of acquiring the Floridas rapidly took shape. Indeed, the value of the Floridas to the United States was regarded as infinitely greater than trans-Mississippi Louisiana. The island of New Orleans, however, out-valued the Floridas; and the instructions which went to Europe, specified that New Orleans and West Florida, in particular, were to be negotiated for.[1]

[1] In letter of March 2, 1803, to Monroe and Livingston, Secretary of State Madison stipulated that the Floridas together were to be estimated at one-fourth the value of New Orleans; and, East Florida at one-half of the value of West Florida.

Meanwhile, Napoleon Bonaparte had come to be the most conspicuous figure in Europe; and one of the moves made by him upon the chess board of European politics was to compel Spain to cede Louisiana back to France. The cession was made by secret treaty,[1] for Napoleon was not then in position to hold by force of arms the re-acquired province against the enemies of France, who were all too ready to invade distant French possessions.

However polite and wordily affectionate was the language of diplomacy employed by the two governments upon the occasion of the treaty, historians recognize the fact that the transaction was purely and simply a case of "stand and deliver" on one side, and reluctant yielding on the other. True, two concessions were made the reluctant party—one expressed in the treaty and the other understood.[2] One was that the Duke of Parma would be raised to a position among the crowned heads of Europe, by Napoleon's power and influence. The other was that France would never part with Spain's extorted gift unless it be to return it to the donor. Neither of these pledges did Napoleon fulfill; and as that one in regard to the Duke of Parma was a stipulated consideration in return for Louisiana, non-fulfilment of the contract on the part of one, according to the moral, as well as the common, law, cancelled the obligation of the other. When the United States purchased Louisiana, it acquired a vitiated title, which, if Spain had been at the zenith of her power, would never have been made good.

Numerous surmises have been advanced regarding Napoleon's motives in acquiring Louisiana. It is reasonable to suppose that he had in view the rehabilitating of French prestige in America. With the St. Ildefonso treaty as precedent, the cession of Mexico and the Floridas could easily

[1] Treaty of Ildefonso, Oct. 27, 1800.

[2] June 19, 1802, Tallyrand pledges by letter to Spain that France will never alienate Louisiana. (See Henry Adams: Hist. of the U. S. during Jefferson's Administration, Vol. 1, p. 400.)

be brought about if once the sea of European politics would settle down into tranquility and the French ship of State be brought to anchor in smooth waters.

But war clouds again lowered, and the loss of Louisiana was threatened. Livingston and Monroe, who were to purchase a modest depot site, found the whole province of Louisiana offered them. Acceptance of the offer and consummation of the transfer of the Province of Louisiana to the United States will be found treated of elsewhere. Suffice it to say, that on Nov. 30, 1803, Commissioner Laussat, on the part of France, received the territory, secretly ceded three years previously, from the Spanish Commissioner Casa Calvo, and twenty days after (Dec. 20, 1803), Governor Claiborne, of the Mississippi Territory, and General James Wilkinson, on the part of the United States, received the territory from Laussat, the ceremonies of transfer taking place in the city of New Orleans.

Thus were the Spanish possessions about the northern shores of the Gulf of Mexico again split into two parts by the Louisiana wedge On one side was Mexico; on the other side were the Floridas. It was left to years of diplomacy to determine exactly what the boundaries should be between the American purchase and the Spanish possessions, and it was not until 1819 that an amicable adjustment was reached.

The year 1803, which saw Louisiana and the island of New Orleans transferred to the United States, saw also Governor Folch, with headquarters at Pensacola, exercising jurisdiction over all Florida. De Grandpré was the military commander of the District of Baton Rouge, remaining as such until 1807 or 1808, when he was succeeded by Don Carlos Dehault de Lassus.

It had been a great disappointment to the English-speaking population of West Florida, that the region inhabited by them had not been included in the transfer of Louisiana to the United States. To the north of them was the Mississippi Territory, organized in 1798, in which a

less restraining, yet more stable, form of government stood in contrast to that under which they were governed. The rich lands about Baton Rouge, had induced many from the Mississippi Territory to cross, with some hesitation, however, the line of demarkation, and take up their abode under a jurisdiction distasteful to them. Antagonism between the more favored Spanish subjects and the less favored English-speaking immigrants was the inevitable result. Complications in regard to smuggling and runaway slaves arose, as they did at the other, or Georgia, end of the Florida boundary line. The policy of De Lassus was vacillating; his character, weak. Innumerable causes of dissatisfaction were afforded every day by corrupt officials and lax methods of suppressing crime. Spain, being so far away and engrossed with her own affairs at that particular time, it was beyond question to refer grievances to other than prejudiced local tribunals. In the midst of this general unrest and discontent, intimation came that Bonaparte claimed West Florida, and would soon take possession.

The West Floridians preferred the jurisdiction of the United States. They were tolerant of and submissive to Spanish rule when based upon any semblance of right and upon some consideration of their interests; but the idea of being dominated by France inspired them with such distaste that they were aroused to action.

A convention was proposed by citizens of Feliciana, and the proposition was generally responded to by the other citizens of the Districts. Delegates were elected, and the convention met in open air at Buhler's Plains, July 17, 1810. John Mills presided, and Dr. Steele acted as secretary. A general desire to appeal for annexation to the United States seemed at first to animate this convention. But unswerving allegiance to Spain, as against any effort of France to take possession, was set forth by formal resolutions.[1]

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[1] "We, therefore, the people of West Florida, exercising the rights which incontestably devolve upon us, declare that we owe no allegi-

Committees waited upon Governor De Lassus, to convey to him the result of the deliberations of this convention, and to present to him memorials relative to the reorganization of the West Florida government. This reorganization was in no way to jeopardize the sovereignty of Ferdinand VII over the province, and to De Lassus himself was pledged the new governorship proposed.[1]

De Lassus apparently acquiesced in the proposed reforms, and another convention assembled, August 22, and continued in session to August 25. John Rhea presided. The sub-districts, or precincts, represented were New Feliciana, St. Helena, Baton Rouge, and St. Ferdinand. The organization of the new government was effected. De Lassus was elected Governor; judges and "civil commanders" were appointed; Philemon Thomas was made colonel, commanding all militia of the district. The convention seems to have acted in a constitutional and sovereign capacity. The proclamation announcing the organization of the new government was made August 22, addressed to the inhabitants of the jurisdiction of Baton Rouge, and signed by De Lassus, "Colonel of the Royal Armies, and

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ance to the present ruler of the French nation, or to any king, prince or sovereign, who may be placed by him on the throne of Spain, and we will always, and by all means in our power, resist any tyrannical usurpation over us of whatever kind, or by whomsoever the same may be attempted, and in order to more effectually preserve the domestic tranquillity and secure for ourselves the blessings of peace and the impartial administration of justice, we propose the following." Then comes a series of thirteen articles, which might be termed a projected constitution. (Publication of the Louisiana Historical Association, Vol. I, part II, p. 42.)

[1] "They wanted peace and the proper administration of justice. . . . Their address closes by forcibly reminding his Excellency of the necessity for a strong militia, well organized, well equipped, and well officered, to insure for the country complete exemption from anarchy and turmoil, and to lend force and dignity to their laws." H. L. Favrot: "Some Account of the Causes that Brought About the West Florida Revolution" (compiled from MS. sources and published in Part II of the Louisiana Historical Society Publication).

Governor, Civil and Military of the Place, and Jurisdiction of Baton Rouge," and "the representatives of the people of said jurisdiction in convention assembled."[1]

Before a month elapsed it was found that the acquiescence of De Lassus was a pretended one, and that his real purpose was treachery. Correspondence, intercepted by Colonel Thomas, revealed the fact that De Lassus was pressing upon Folch at Pensacola the necessity of sending to Baton Rouge a large force to quell an insurrection "of his Catholic Majesty's subjects" then in progress. He urged that Folch march to the scene in person and that he summon assistance from Cuba, as the insurgents were "desperate and determined."

Upon discovery of the Governor's treacherous plans, Colonel Thomas immediately consulted with the leaders of the recent movement. It was decided to raise the banner

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[1] "*To the Inhabitants of the Jurisdiction of Baton Rouge:*

"His Excellency, Carlos Dehault DeLassus, Colonel of the Royal Armies and Governor Civil and Military of the Place and Jurisdiction of Baton Rouge, with the representatives of the people of the said jurisdiction, in convention assembled, announce:

"That the measures proposed to be adopted for the public safety and for the better administration of justice within the said jurisdiction, are sanctioned and established as ordinances, to have the force and authority of law, within the several districts of this jurisdiction, until the same be submitted to the Captain-General of the island of Cuba, and until his *decision thereon* shall be known. The said ordinances will be made known in each district with all possible dispatch, and in the meantime all the good people of this jurisdiction are required to preserve good order and avoid every movement which may disturb the public tranquillity—it being the only object of both the Governor and the representatives to consult the best interests of the inhabitants. And although it is not intended to mark with severity the authors of the disorder which has appeared in several parts of the country for some time past, yet all such persons as may be found offending in that manner, after this date, will be punished with the severity which the law prescribes and which their offences may deserve.

"Baton Rouge, August 22, 1810."

(Louisiana Historical Society Papers, part II, pp. 44–45.)

of open revolt and declare West Florida a free and independent State. A convention was held. Independence was declared (Sept. 26, 1810),[1] and a new government under Fulwar Skipwith, as governor, was instituted.

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[1] "By the Representatives of the people of West Florida, in convention assembled:

"A DECLARATION.

"It is known to the world with how much fidelity the good people of this Territory have professed and maintained allegiance to their legitimate sovereign, while any hope remained of receiving from him protection for their property and their lives.

"Without making any unnecessary innovation in the established principles of the government, we had voluntarily adopted certain regulations, in concert with our First Magistrate, for the express purpose of preserving this Territory, and showing our attachment to the government which had heretofore protected us. This compact which was entered into with good faith on our part, will forever remain an honorable testimony of our upright intentions and inviolable fidelity to our king and parent country, while so much as a shadow of legitimate authority remained to be exercised over us. We sought only a speedy remedy for such evils as seemed to endanger our existence and prosperity, and were encouraged by our Governor with solemn promises of assistance and co-operation. But those measures, which were intended for our preservation, he has endeavored to pervert into an engine of destruction, by encouraging in the most perfidious manner, the violation of ordinances sanctioned and established by himself as the law of the land.

"Being thus left without any hope of protection from the mother country, betrayed by the magistrate whose duty it was to have provided for the safety and tranquillity of the people and government committed to his charge, and exposed to all the evils of a state of anarchy, which we have so long endeavored to avert, it becomes our duty to provide for our own security, as a free and independent state, absolved from all allegiance to a government which no longer protects us.

"We, therefore, the representatives aforesaid, appealing to the Supreme Ruler of the world for the rectitude of our intentions, do solemnly publish and declare the several districts composing this Territory of West Florida to be a *free and independent State;* and that they have a right to institute for themselves such form of government as they may think conducive to their safety and happiness; to form treaties; to establish commerce; to provide for their com-

Meanwhile Thomas and the militia were engaged in taking forcible possession of Spanish military defenses. According to some accounts, De Lassus had absented himself from his post and left in command young Louis de Grandpré, grandson of Carlos de Grandpré, former governor, but in reality he was within the fort, tradition says, in hiding, and it was because of his cowardice that his young lieutenant assumed charge of the defenses.

Grandpré was besieged in Baton Rouge, and after a gallant and stubborn resistance, in which he lost his life, the post surrendered to the forces of the convention.

Thus was the birth of a new American State proclaimed, and thus did a people wrest from a potentate their liberty and independence. In order to better continue in the enjoyment of these acquired privileges, application was made for admission into the Union. A copy of the "declaration" was forwarded to the President of the United States, through Governor Holmes of the Mississippi Territory,

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mon defence; and to do all acts which may, of right, be done by a sovereign and independent nation; at the same time declaring all acts, within the said Territory of West Florida, after this date, by any tribunals or authorities not deriving their powers from the people, agreeably to the provisions established by this Convention, to be null and void; and calling upon all foreign nations to respect this declaration, acknowledging our independence, and giving us such aid as may be consistent with the laws and usages of nations." (Gayarré: Hist. of La., Vol. 2, pp. 231–233.)

Gayarré finds it strange that in this document of the revolters, allusion is made to the "fidelity with which they had professed and maintained allegiance to their legitimate sovereign," and to their solicitude to proclaim that "they had not taken arms against the king." (Hist. of La., Vol. 4, p. 231.) He seems not to have had access to data concerning the previous uprising of the West Floridians, in which they declared their continued allegiance to the king, and had in view only the bettering of the government and stricter administration of justice, while continuing the Spanish governor, DeLassus, in office. This is what the declarers meant in alluding to their past loyalty—that their former movement had not been insurrectionary. With their present movement they did not couple their expressions of loyalty.

and Rhea, writing under date of October 10, opened communication with the Secretary of State at Washington, with a view to either admission or annexation. Inasmuch as the inhabitants had risked both blood and treasure in the acquirement of the territory, it was sought to reserve the public lands to their exclusive benefit.[1] October 27, President Madison issued his proclamation declaring West Florida under the jurisdiction of the United States. Governor Claiborne of Orleans Territory was ordered to take possession, and, repairing to Natchez, he organized a small force of mounted milita, entered West Florida, and at St. Francisville, one of the principal towns of the Territory, raised the flag of the United States. No opposition was encountered.

The beginning of the "Free and Independent State of West Florida" dates with the assembling of the convention, September 23, 1810; and its career terminates with the raising of the flag of the United States at St. Francisville, December 6, of the same year. Yet brief as was this career, it was nevertheless active. When the Spanish authorities of Baton Rouge were deposed, it was anticipated that Governor Folch would attempt to interfere with the organization of the little republic. So the convention posted a line of sentinels along the banks of the Pearl river, the eastern boundary of the part of West Florida in revolt. The maintenance of this line was found to be an uncertain and expensive means of safety against attack. It was determined to settle the matter at once by a resort to arms. War was declared against Mobile. An expedition under the command of Colonel Reuben Kemper[2] made its way to the

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[1] The claim of the West Floridians to their public domain was rejected upon the theory that West Florida already belonged to the United States as a part of the Louisiana Territory purchase.

[2] Kemper was one of three gigantic brothers, living in the neighboring Mississippi Territory, all of whom had previously incurred the displeasure of the Spanish authorities. One of them had been imprisoned, since which time the Spaniards had no foe more relentless than the Kempers.

shores of Mobile bay; but, being poorly equipped, was compelled to defer its attack until a supply of arms and munitions could be procured. An agent of Kemper managed to purchase of Henri de la Francia, a citizen of Baton Rouge, a lot of arms,[1] and the convention brought a flat-boat load of Western produce, transferred it to a keel-boat, and sent it to the relief of Kemper.

Governor Folch was completely demoralized at the display of force made by Kemper; he wrote, December 3, to President Madison, imploring the Government of the United States to send the garrison of Fort Stoddard to help him "drive Reuben Kemper back to Baton Rouge," and to send commissioners with power to treat for the transfer of Mobile and the rest of the province of West Florida to the United States. Three days later, Claiborne reached St. Francisville. Kemper and his men, being without governmental authority to sustain them in their undertaking, made their way back.

The annexation of West Florida called forth protests from Spain and Great Britain.[2] Indeed, such was the attitude of the latter that Congress passed secret acts authorizing the President to take temporary possession of East Florida (Jan. 15 and Mar. 3, 1811) should England, persisting in the idea that there was a territorial grab game going on without her participation, endeavor to seize East Florida.[3]

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[1] It is interesting to note that these same arms formed a part of the much-needed equipment which General Jackson, five years later, with difficulty collected for the defence of New Orleans against the British.

[2] "I deem it incumbent upon me," said Mr. Morier, Great Britain's representative at Washington, to the Secretary of the State, on the 15th of December, "considering the strict and close alliance which subsists between His Majesty's Government and that of Spain, to express to the Government of the United States, through you, the deep regret with which I have seen that part of the President's message to Congress, in which the determination of this government to take possession of West Florida is avowed." (Gayarré: Hist. of La., Vol. 4, p. 241.)

[3] See Winsor: Nar. and Crit. Hist. of America, Vol. 7, p. 546.

Indeed, in 1814, General Jackson, commanding the military defenses of the South in the war of 1812, was under the necessity of invading the Spanish province to drive British forces from Pensacola.

January 22, 1812, by act of Congress, Louisiana was admitted to the American Union as a State. April 14 following, an act adding that part of West Florida lying between the Pearl and Mississippi rivers to Louisiana as constituted, was approved by the President. Thus, after many cruises in various jurisdictional seas, the West Florida ship of State finally came to permanent anchorage in undisturbed waters, its memory still preserved in every allusion to the "Florida Parishes" of Louisiana.

Part II.

The Madison-Livingston Theory of West Florida Acquirement.

Part II.

THE MADISON-LIVINGSTON THEORY OF WEST FLORIDA ACQUIREMENT.

I.—Mr. Madison's Acceptance of Mr. Livingston's View.

In the beginning of this paper reference was made to the fact that a number of historical works give the limits of the Louisiana purchase as extending eastward to the Perdido river. The first intimation of this extension came from Mr. Livingston, Minister to France, who in a letter to Secretary of State Madison, of date May 20, 1803, exactly twenty days after the treaty was signed which ceded Louisiana to the United States, alludes to a conversation held with Marbois,[1] in which the latter stated as an historic fact that Mobile was once a part of French Louisiana. Mr. Livingston then analyzes the clause in the treaty of Ildefonso, which specifies that the Louisiana therein ceded to France was of "the same extent it now has in the hands of Spain, and which it had when France possessed it," and deduces therefrom an acquired right of the United States to the greater part of the territory of West Florida as included in the Louisiana purchase. He advises strongly that Madison adopt this view and insist upon the boundaries thus extended. Madison did so, and this view became an established opinion which actuated him after he had become President of the United States. Either this view was wrongly taken, or such careful investigators as McMaster, Hart, and others are in error.

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[1] French Minister of Foreign Affairs and author of an excellent history of Louisiana.

It should be remembered that the desire of the United States at no time, either by popular discussion or Presidential letter of instructions, extended to the possession of territory west of the Mississippi river. This river was looked upon as a natural boundary. The acquirement of the Floridas and the island of New Orleans would extend this boundary along the whole length of the river to the Gulf, which was an object greatly to be desired by the young republic.

Livingston was authorized to negotiate for the cession, by treaty or sale, to the United States of the island of New Orleans and the Floridas, if not East Florida at least West Florida. Even after the purchase of Louisiana was concluded, Monroe was instructed by Madison to continue and press the negotiations for the acquirement of the Floridas. The importance of these to the United States is indicated by the persistent diplomacy, covering a period of more than sixteen years, which the Federal Government employed in holding to the idea that Florida must be ours.

A negotiation which aimed at the acquirement of Florida and resulted in the acquirement of the west bank of the Mississippi, was a partial administrative failure. Little or nothing was known of the West in those days; the frontier civilization had but a short time previous been moved beyond the Alleghanies. What was wanted, was not land beyond the river, but removal of the barriers which barred egress to the Gulf.

Jefferson, President when Louisiana was purchased, was borne into office by the popularity of the principles he represented. The continuance of his party in power depended, in those days of unstocked conventions and free expression of the people's will, upon the success of the administration in executing the will and desires of the people.

Secretary of State Madison was, therefore, more than willing to grasp at the straw of West Florida acquirement held out by Livingston.

II.—The Basis of Mr. Livingston's Claim.

An examination of the correspondence which passed between Livingston, while Minister to France, and Secretary of State Madison betrays unmistakably the motive which actuated Livingston in claiming West Florida to the Perdido as included in the Louisiana purchase.

Taking up the correspondence at that point where Livingston is not yet fully sure of the fact that Spain had secretly ceded Louisiana to France,[1] we find him ascribing as a reason why the French Minister will give him no information, the fact that a difference exists between France and Spain in regard to the limits of the ceded province[2] —whether they included the Floridas or not, France so claiming, and Spain denying. He further adds in the same letter: "The French government had probably no doubt until we started it." This is a remarkable admission. The United States wants to know who owns West Florida. The mere asking suggests to France doubtful ownership. A claim-all spirit manifests itself. The letter also shows Spain consistently maintaining her claim to Florida. This, coming between the Louisiana retrocession and purchase is significant.

The correspondence then indicates some uncertainty in Livingston's mind as to whom he should apply in order to execute his commission of buying West Florida. May 28, he presumes to Spanish Ambassador d'Azara, "the Floridas are not included" in the St. Ildefonso cession. September 1,[3] he has "every reason to believe the Floridas are not included." November 2, he writes:[4] "Florida is not, as I before told you, included in the cession." November 11, we find him writing:[5] "In my letter to the Presi-

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[1] Letter of December 10, 1801.
[2] Letter of May 28, 1802.
[3] Livingston to Madison, September 1, 1802.
[4] Livingston to Madison, November 2, 1802.
[5] Livingston to Madison, November 11, 1802.

dent, I informed him that General Bornouville had gone post-haste to Spain, and that I had reason to think he had it in charge to obtain the Floridas." November 14, he has "obtained accurate information" of the offer to be made by France for Florida.[1] December 20, he writes:[2] "France has not yet got Florida."

At the time Livingston is thus writing to his home government his positive statements in regard to France's non-acquirement of Florida, we find him "presuming the Floridas are in the hands of France" in a communication to the French Minister of Foreign Relations,[3] and then communicating to Madison: "The Floridas, not yet ceded."[4] "The essential fact for us is that the Floridas are not yet ceded."[5] "Florida is not yet ceded, nor, as I hope, likely to be so."[6]

In reading the letters of Livingston one gets an unpleasant sense of helplessness displayed upon the part of our diplomatic representative. For more than a year his messages to his home government tell the monotonous story of nothing definitely accomplished. The presidential election was near at hand, and there was nothing as yet to report to the American people. Thus it was that the halting forces of American diplomacy at Paris were re-enforced and James Monroe sent as Minister Plenipotentiary and Envoy Extraordinary to hasten a victory.

March 3, 1803, Livingston writes in reply to the notification of Monroe's appointment, just received, and wishes Monroe success, adding the familiar refrain "The Floridas are still in the hands of Spain." From the time Monroe reaches Paris, and becomes co-signer with Livingston of the letters to Madison, reporting progress, there is seen a radical change in the tone and spirit of these letters. Di-

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[1] Livingston to Madison, November 14, 1802.
[2] Livingston to Madison, December 20, 1802.
[3] Livingston to Minister Foreign Relations, January 10, 1803.
[4] Livingston to Madison, February 5, 1803.
[5] Livingston to Madison, February 18, 1803.
[6] Livingston to Madison, March 24, 1803.

rectness and "business" animate them. These qualities in Monroe, with the opportune time of his arrival, brought speedy results, for less than a month after his arrival, Lousiana, with its magnificent domain, passed by treaty of purchase to the possession of the United States (April 30, 1803.)

Monroe's appointment and the speedy conclusion of Louisiana cession after his arrival, was a source of chagrin to Livingston. He had written,[1] after receiving the notification of Monroe's appointment, and before Monroe's arrival in Paris, "With respect to the negotiation for Louisiana, I think nothing will be effected here." His personal feeling in the matter is manifest in his letters of March 18, 1803, and June 25, 1803. "I cannot but wish, sir," he writes in the first, "that my fellow citizens should not be led to believe from Mr. Monroe's appointment, that I had been neglectful of their interests." And in the last named he claims that his management and diplomacy had brought the French government to terms before Monroe's arrival.

As time passed on Livingston realized that a great event had taken place, and that there were indications that his name would go down in history as taking a secondary part therein. Note how he holds himself up to Secretary Madison:[2] "I this day got a sight of a letter from the minister, containing directions for giving up the country, and assigning the reason for the cession. I was much flattered to find their reasons drawn from the memoir I had presented." By November the idea that he principally had achieved the Louisiana purchase had so grown that we find him conceding as follows:[3] "There is no doubt Mr. Monroe's talents and address would have enabled him, had he been placed in my circumstances, to have effected what I have done. But he came too late to do more than assent to the

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[1] Livingston to President Jefferson, March 12, 1803.
[2] Livingston to Madison, July 30, 1803.
[3] Livingston to Madison, November 15, 1803.

proposition that was made us and to aid in reducing it to form." This letter also refers to some feeling on the part of Mr. Livingston's friends that Monroe should be mentioned in the papers at home as acting minister, and that he (Livingston) was not the principal agent in treating with France.

The foregoing gives us the key to Mr. Livingston's sudden change of conviction concerning West Florida when Minister Marbois intimated that Mobile was once a part of Colonial Louisiana. It had been and was the desire of the United States to acquire West Florida and the Island of Orleans. Monroe had assented to the purchase of Louisiana instead. If Livingston could formulate a reasonable theory upon which the United States could base a claim to West Florida the glory would be his and his alone. Perhaps his friends at home who were so solicitous in regard to his not being subordinated to Mr. Monroe, might even persuade a grateful people to confer upon him the highest honor within their gift, an honor afterwards conferred upon his colleague.

To substantiate this view it will be noted that Livingston, at a time when official communications to the Department of State at Washington, from the American mission in Paris, were being signed by both Monroe and himself, writes over his own signature, and evidently without consulting his colleague, his advice to claim West Florida and his argument therefor. This letter bears date of May 20, 1803, and it is not until June 7, that Monroe and Livingston are jointly and officially "happy to have it in our power to inform you that on a thorough examination of the subject, we consider it incontrovertible that West Florida is comprised in the cession of Louisiana."[1]

Here is Mr. Livingston's personal letter of May 20:

"I informed you long since that on inquiring whether the Floridas were within the cession of Spain, I was told

[1] Monroe and Livingston to Madison, June 7, 1803.

by M. Marbois he was sure that Mobile was, but could not answer further. I believed the information incorrect because I understood that Louisiana as it then was, made the object of the cession, and that since the possession of the Floridas by Britain, they had changed their names. But the moment I saw the words of the treaty of Madrid I had no doubt but it included all the country that France possessed by the name of Louisiana previous to their cession to Spain, except what had been conveyed by subsequent treaties. I accordingly insisted with M. Marbois at the time we negotiated, that this would be considered as part of our purchase. He neither assented or denied, but said all they received from Spain was intended to be conveyed to us. That my construction was right is fairly to be inferred from the words of the treaties and from a comment upon them contained in the Spanish Minister's letter to Mr. Pinckney, in which he expressly says that France had received Louisiana as it formerly belonged to her saving the rights of other Powers. This leaves no doubt upon the subject of the intention of the contracting parties. Now it is well known that Louisiana as possessed by France was bounded by the Perdido, and that Mobile was the metropolis. [?] For the facts relative to this I refer you to Raynal and to his maps. I have also seen maps here which put the matter out of doubt.

"I called upon M. Marbois for a further explanation on this subject and to remind him of his having told me that Mobile made a part of the cession. He told me he had no precise idea on the subject, but that he knew it to be a historical fact, and that on that only he had passed his opinion. I asked him what orders had been given to the Prefect who was to take possession, or what orders had been given by Spain as to boundary in ceding it. He assured me that he did not know, but that he would make inquiry and let me know. At four o'clock I called for Mr. Monroe to take him to the Minister of Foreign Affairs, but he was prevented from accompanying me. I asked the Minister what were the eastern boundaries of the territory ceded to us. He said he did not know; we must take it as they had received it. I asked him how Spain meant to give them possession? He said according to the words of the treaty. But what did you mean to take? I do not know. Then you mean we shall construe it in our own way? I can give you no directions; you have made a noble bar-

gain for yourselves and I suppose you will make the most of it.

"Now, sir, the sum of this business is, to recommend to you in the strongest terms, after having obtained the possession that the French commissary will give you, to insist upon this as a part of your right, and to take possession at all events to the river Perdido. I pledge myself that your right is good; and after the explanations that have been given here you need apprehend nothing from a decisive measure. Your Minister here and at Madrid can support your claim, and the time is peculiarly favorable to enable you to do it without the smallest risk at home. It may also be important to anticipate any designs that Britain may have upon that country. Should she possess herself of it and the war terminate favorably, she will not readily relinquish it. With this in your hand East Florida will be of little moment and may be yours whenever you please. At all events proclaim your right and take possession."

In view of the facts as previously reported by Mr. Livingston that Spain denied from the first having included West Florida in the St. Ildefonso cession; that France was wholly in ignorance of having acquired any claim to West Florida until Mr. Livingston's inquiries suggested that claim be made; and that France negotiated anew for the Floridas after the St. Ildefonso cession, thus showing France's St. Ildefonso claim to Florida being specious and untenable these facts render comment on the letter unnecessary, particularly as we have considered the treaty phase of the subject in another place.

Madison made the claim as directed, but the United States did not take possession of West Florida when Louisiana passed into her hands. But for the successful revolt of the West Floridians in 1810, and their application for admission or annexation, the title to West Florida would have been an open question until 1819. As it was, the treaty making cession of Florida to the United States specified East and West Florida.[1]

[1] This claim certainly did not impress the mind of President Jefferson very forcibly, for we find him writing, in 1809, after his retire-

III.—A Resumé of Successive Jurisdictional Rights to the Territory of West Florida.

The successive changes in the jurisdictional right to West Florida may be summarized as follows:

1512 to 1699 Spain's by right of Discovery and Exploration.

1699 to 1763 France's by right of Occupancy.

1763 to 1783 England's by right of Treaty.

1783 to 1810 Spain's by right of Conquest.

1810 (Sept. 26) to 1810 (Oct. 27) Independent by Declaration and Revolt.

1810 (Oct. 27) to 1812 (April 14) United States Territory by Annexation.

1812 (April 14) to .... Louisiana's by Act of Congress.

The original right of Spain to the Gulf coast by discovery and exploration cannot be gainsaid. But discovery only furnishes an inchoate title to possession in the discoverer.[1] Grotius, Puffendorf and Pothier all agree that to complete title, the right to the thing and the possession of the thing should be united. Spain united her right to Florida with her possession of Florida when she established permanent settlements at St. Augustine (1565) and at Pensacola (1699).

When France laid claim to the lower Mississippi Valley, her title was a questionable one. The region had already been discovered, explored and claimed. Her right could

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ment: "[Bonaparte] would give us the Floridas to withhold intercourse with the residue of those [the Spanish] colonies. But that is no price; because they are ours in the first moment of the first war; and until a war, they are of no particular necessity to us . . ." This is a virtual acknowledgment, by one preëminently qualified to know, that the acquirement of the Floridas was a matter for future consideration, and that neither one of the Floridas had come into possession of the United States by the Louisiana purchase. See John T. Morse, Jr.: Thomas Jefferson, p. 322. (American Statesmen Series.)

[1] Phillimore: International Law, Vol. 1, p. 268.

have been set aside at any time, as it subsequently was by England in the Ohio Valley, had her national strength not been such as to preclude a weaker nation such as Spain from successfully resisting encroachment. Long years of undisturbed occupancy bettered France's claim.

When France, Spain, and Great Britain were made parties to the treaty 1763, which ceded Louisiana to Spain and Florida to Great Britain, valid title by possession of her part of the ceded territory was acquired by Great Britain at once (1763).

Spain failed to make good by occupancy her title until 1769, when O'Reilly took formal possession. For six years, therefore, the Louisiana as France possessed it, and as Spain received it, included no territory between the Mississippi and Perdido rivers.

In 1779-81 Spain acquired West Florida, as well as East Florida by right of conquest, confirmed by treaty of 1783. By no logical process of reasoning can it be shown that Spain's independent title to West Florida thus acquired should be included in Spain's previously acquired title to Louisiana and the island of New Orleans.

Unquestionably France's title to Louisiana reacquired by the secret treaty of St. Ildefonso was invalidated by her failure to return the promised consideration. Contracts between nations should be held as inviolable as contracts between individuals, and the fact that no tribunal exists to administer international justice and compel nations to act in conformity with moral law and international rights, is no reason why historians should side with might in error as against right in misfortune.[1]

[1] It has sometimes been said that there can be no laws between nations, because they acknowledge no common superior authority, no international executive capable of enforcing the precepts of international law.

This confounds two distinct things, viz.: the physical sanction which law derives from being enforced by superior power, and the moral sanction conferred on it by the fundamental principle of right.

International justice would not be less deserving of that appella-

Spain's weakness prevented her from doing more than protest against the bad faith which actuated Napoleon in selling Louisiana. This she did.[1] But however unheeded went this protest, Spain upheld her claim to the Floridas and consistently insisted from beginning to end of the territorial controversy with the United States that no just interpretation of the St. Ildefonso treaty and of its resultant Louisiana purchase treaty would include any part of West Florida in the Louisiana retroceded to France and sold by that nation to the United States.

Article III of the St. Ildefonso treaty, secretly concluded October 1, 1800, reads as follows:[2]

"His Catholic majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to his royal highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it has now in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and the other States."

The "*extent that it now has in the hands of Spain*" did not mean to include West Florida, for the latter was separate from Louisiana in the Spanish mind; and in governmental ordinances and treaties the Floridas are always specified as distinct from Louisiana, Cuba and other Spanish possessions.[3] "*And that it had when France possessed it.*" When France possessed it between 1763 and 1769, as we

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tion if the sanctions of it were wholly incapable of being enforced. (Phillimore: Commentaries upon International Law, Vol. 1, p. 75.)

[1] Letters of September 4 and September 27, 1803, from Marquis de Casa Yrujo, Minister of Spain, to Secretary Madison, hold that (1) France had renounced right of alienating the acquired territory; (2) had neglected to carry out provisions of the St. Ildefonso treaty in regard to the Duke of Parma.

[2] Martens: Recueil de Traités, Vol. 10, p. 467.

[3] Galvez held the commission of Governor-General of Cuba, the Floridas and Louisiana.

have seen, it did not include West Florida. *"And such as it should be after the treaties subsequently entered into between Spain and other States."* Spain entered into no treaty with other States relative to Louisiana until she ceded it back to France in 1800. She had, however, entered into two treaties in regard to the Floridas; one with England, acquiring possession of them (1783), and the other with the United States, fixing their northern boundary (1795).

The Louisiana ceded to Spain by France, and retroceded by Spain to France, did not extend to the Perdido river. The only territory east of the Mississippi river included in the Louisiana transferred and retransferred, was the triangular portion extending from Bayou Manchac and the lakes, down the east bank of the Mississippi to its mouth, and known as the Island of Orleans.

No better argument can be made to support this statement than the unanswerable letter of Tallyrand here appended. Monroe had written Tallyrand under date of Nov. 8, 1804, to invoke his support in the cause of the United States in its claim to West Florida, as Tallyrand was fully conversant with facts connected with the secret St. Ildefonso treaty.[1] Tallyrand replies as follows:

"France, in giving up Louisiana to the United States, transferred to them all the rights over that territory which she had acquired from Spain. She could not nor did she wish to cede any other; and that no room might be left for doubt in this respect, she repeated in her treaty of 30th of April, 1803, the literal expression of the treaty of St. Ildefonso, by which she had acquired that colony two years before. Nor was it stipulated in her treaty of the year

[1] While the general reputation of Tallyrand would cause one to hesitate before ascribing to any utterance of his undue weight, yet the letter cited bears every mark of sincerity, and may well be taken as strong corroborative testimony. J. L. M. Curry maintains that this letter decidedly weakened the contention of the United States that Louisiana, as purchased, extended to the Perdido river. See Curry: "Acquisition of Florida", Magazine of American History, for April, 1888.

1801 that the acquisition of Louisiana by France was a retrocession: that is to say that Spain restored to France what she had received from her in 1762. At that period she had received the territory bounded on the east by the Mississippi, the river Iberville, the lakes Maurepas and Pontchartrain: the same day France ceded to England by the preliminaries of peace, all the territory to the eastward. Of this Spain had received no part and could therefore give back none to France.

"All the territory lying to the eastward of the Mississippi and south of the 32d degree of north latitude bears the name of Florida. It has been constantly designated in that way during the time that Spain held it: it bears the same name in the treaties of limits between Spain and the United States: and in different notes of Mr. Livingston of a later date than the treaty of retrocession in which the name of Louisiana is given to the territory on the west side of the Mississippi: of Florida to that on the east side of it.

"According to this designation thus consecrated by time even prior to the period when Spain began to possess the whole territory between the 31st degree, the Mississippi, and the sea, the country ought in good faith and justice to be distinguished from Louisiana.

"Your Excellency knows that before the preliminaries of 1762, confirmed by the treaty of 1763 the French possessions situated near the Mississippi extended as far from the east of this river toward the Ohio and Illinois as in the quarter of Mobile; and you must think it as unnatural, after all the changes of sovereignty which that part of America has undergone to give the name of Louisiana to the Mobile district as to territory more to the north of it, on the same bank of the river, which formerly belonged to France.

"These observations, sir, will be sufficient to dispel every kind of doubt with regard to the extent of the retrocession made by Spain to France in the month Vendemiaire, year 9. It was under this impression that the Spanish and French Plenipotentiaries negotiated and it was under this impression that I have since had occasion to give the necessary explanations when a project was formed to take possession of it. I have laid before his Imperial Majesty the negociations of Madrid which preceded the treaty of 1801 and his Majesty is convinced that during the whole course of these negociations, the Spanish Government has constantly refused to cede any part of the Floridas, even from the Mississippi to Mobile.

"His Imperial Majesty has, moreover, authorized me to declare to you that at the beginning of the year II, Gen. Bournouville was charged to open a new negociation with Spain for the acquisition of the Floridas. His project which has not been followed by any treaty is an evident proof that France had not acquired by the treaty retroceding Louisiana the country east of the Mississippi."

Future contributors to the history and cartography of the United States will do well to investigate the subject as outlined in this paper, and by way of suggestion a map is appended indicating the corrections to be made in maps showing acquirements of territory by the United States, if the views set forth in this paper be found substantially correct.

CHRONOLOGY.

1512 De Leon discovers Florida.
1519 Pineda explores coast of West Florida.
1528 De Narvaez invades Florida.
1539-41 De Soto's expedition.
1565 Spanish settle St. Augustine.
1682 La Salle takes possession of the lower Mississippi Valley.
1699 Spanish settle Pensacola.
French settle Biloxi.
1716 Fort Rosalie (Natchez) established.
1718 New Orleans founded.
1755 War between France and England in America begins.
1762 Preliminary Treaty between Great Britain, France, and Spain. (Nov. 3.)
1763 Treaty of Paris. Louisiana ceded to Spain; the Floridas to England. (Feb. 10.)
Proclamation of George III constituting province of West Florida. (Oct. 7.) Johnstone, Governor.
1764 Louis XV. commissions M. d'Abadie to deliver Louisiana to the Spanish representative. (April 21.)
1766 Ulloa arrives in Louisiana to take possession for Spain. (Mar. 5.) Fails to do so.
1767 Great Britain establishes 32° 28′ as the northern boundary of West Florida. Elliott, Governor.
1769 O'Reilly takes possession of Louisiana for Spain.
1770 Peter Chester becomes Governor of West Florida.
1775 War between England and the English colonies in America begins.
1777 France allies herself with America.
1778 Willing's raid into West Florida.

1779 Spain declares war against Great Britain.
Galvez, Governor of Louisiana invades West Florida; captures Fort Bute. (Sept. 7.)
1780 Galvez captures Ft. Charlotte (Mobile.) (Mar. 14.)
1781 Galvez captures the English Fort at Pensacola. (May 9.)
1783 Treaty of Paris. The Floridas ceded by Great Britain to Spain.
1795 Treaty between Spain and the United States. 31st parallel decided upon as the boundary line between the United States and the Floridas.
1800 Secret Treaty of St. Ildefonso. Louisiana retroceded to France. (Oct. 7.)
1803 Treaty ceding Louisiana to the United States signed. (April 30.) United States takes possession of Louisiana and the Island of New Orleans. (Dec. 20.)
1810 Convention of Buhler's Plains, West Florida. (June 10.)
Memorial to Gov. De Lassus by citizens of West Fla.
Convention of Baton Rouge. (Aug. 22-25.)
Treachery of De Lassus discovered. (Sept. 20.)
Spanish Post of Baton Rouge stormed and captured. (Sept. 22.)
Independence of West Florida declared. (Sept. 26.)
West Florida between the Mississippi and Pearl rivers annexed to the United States upon petition of the West Florida revolters. President's proclamation issued. (Oct. 27.)
1812 Louisiana admitted to the Union. (Jan. 22.) Annexed territory of West Florida joined to the State of Louisiana by Act of Congress. (April 14.) Pearl-Perdido portion annexed to Mississippi Territory.
1813 United States takes possession of the Mobile district of West Florida. (April 15.)

1819 Florida cession treaty concluded with Spain. (Feb. 22.)

1820 King of Spain ratifies Florida cession treaty. (Oct. 24.)

1821 Cession of the Floridas proclaimed. (Feb. 22.)
Formal transfer of the Floridas to the United States. (July 17.)

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